

Washington, D. C. 20505

Executive Registry

81-7277

DD/A Registry

81-1032/1

14 May 1981

DD/A REGISTRY

FILE: Security 4-1

The Honorable William French Smith
Attorney General
Department of Justice
Washington, D. C. 20530

Dear Bill:

This is a follow up on one of the topics in our conversation at The Homestead on Saturday. I had been advised that both Justice and State had opposed our proposal to amend the Freedom of Information Act to exempt files created or maintained by the CIA or NSA. This opposition was on the basis that the Administration should formulate a comprehensive proposal to deal with this problem on a Government-wide basis.

I have talked to Al Haig on the basis that it is a better strategy to go forward with the strongest case to break down strong resistance to any change in the Freedom of Information Act. The strongest case would seem to be that the intelligence service of other nations will not freely share their information with U.S. intelligence agencies as long as they feel anybody can have that information on demand. The perception created by requiring our intelligence agencies to respond to information requests results in a complete denial of important intelligence from sources that have been critical in the past. On the basis of this I understand that State has withdrawn its opposition and hope that Justice will do the same.

I am attaching some talking points prepared for me to take this subject up with you.

Yours,



William J. Casey

Attachment
As stated

Distribution per ES:

- Orig - Adse.
- 1 - DCI
- 1 - DDCI
- 1 - LC
- 1 - GC
- ① - DDA
- 1 - ER

81-1032/1

Legislative Relief from the FOIA

-- The Department of Justice has taken a position in opposition to the DCI's proposal to amend the FOIA to exclude files created or maintained by CIA or NSA.

-- This opposition is grounded on the proposition that the Administration should formulate and pursue a comprehensive proposal to deal with FOIA-related problems on a government-wide basis.

-- The Department's position reflects the previous Administration's attitude toward FOIA relief, and indicates an inability or unwillingness to understand that CIA/NSA problems cannot be solved by strengthening the grounds upon which information can be withheld from public disclosure under the Act.

-- Only a total exclusion of records created or maintained by the CIA or NSA from all of the Act's requirements can resolve our most pressing problem, the need to search and review records in response to FOIA requests.

-- A total exclusion for records created or maintained by CIA or NSA would not in any way jeopardize, and could in fact benefit, efforts to formulate a government-wide proposal to meet common problems being encountered by other agencies. Legislation for CIA/NSA would stimulate Congressional awareness of the difficulties being encountered under the FOIA.

-- The right of U.S. persons to obtain information concerning themselves pursuant to the Privacy Act would not be affected by an exclusion of CIA/NSA records from the FOIA. Thus, the Administration can support this proposal while assuring individual Americans of continued access to personal information which might be held by CIA or NSA.

-- Representative Glenn English (D., OK), Chairman of the House Government Operations Subcommittee on Government Information and Individual Rights has indicated that his Subcommittee will hold hearings on the FOIA. Representative English is aware of the severity and urgency of the problems confronting CIA and NSA, and he has promised to give these agencies priority attention.

-- Senate Select Committee on Intelligence Chairman Goldwater is anxious to introduce a full FOIA exclusion for CIA and NSA, and to see such a measure reported favorably from his Committee.

-- The Administration's platform and campaign pledged decisive action to rebuild and enhance the nation's intelligence capabilities. It is time to fulfill this commitment by removing the CIA and NSA from the FOIA.

-- Only a total exclusion of records created or maintained by CIA/NSA from all of the Act's requirements can eliminate the need to search and review records in response to FOIA requests. It is this elimination which is crucial to ending the wasteful and debilitating diversion of resources and critically needed skills, eliminating the growing danger of court-ordered release of properly classified information, and regaining the confidence of human sources and foreign intelligence services.

-- The full and enthusiastic support of the Department of Justice for the DCI's legislative proposal is essential now. We cannot wait for a government-wide approach which will not contain effective relief for CIA and NSA.

ILLEGIB

